

**COMMISSIONER REPORT**  
**TOP SHELF BOTANICAL'S - PASTRE SPECIAL USE REQUEST**  
**POLSON CITY-COUNTY PLANNING AREA**  
**HIGHWAY COMMERCIAL ZONING DISTRICT (HCZD)**  
**JUNE 6, 2022**

**GENERAL INFORMATION:**

Landowner: Pastre Holdings, LLC  
Applicant: Tyra  
DBA: *Top Shelf Botanicals*  
Application Number: CC 22-13 (Special Use)

Application Type: Special Use: Highway-oriented commercial  
Date Received: April 5, 2022  
Date of Legal Notice: August 20, 2022 (Valley Journal)  
April 19, 2022 (Adjacent Notice)  
Date of Site Visit: September 1, 2021  
Date of Public Hearing: Tuesday, May 10, 2022  
Commissioners Meeting: Monday, June 13, 2022 2:30 pm

**Please note:** Portions of this report in *bold italics* represent Board discussion and have been added for consideration. The "Board" referenced is the City/County Planning Board.

**PROPOSAL:**

Tyra, doing business as Top Shelf Botanicals, is requesting a special use approval on a property belonging to Pastre Holdings, to use the subject property to operate two marijuana dispensaries. The commercial property is located within the Highway Commercial Zoning District (HCZD) of the Polson City-County Planning Area of the Polson Development Code. The view from the highway is critical to the city's image, so any major changes in occupancy of existing developments in the HCZD require a special use approval.

**PROPERTY DESCRIPTION:**

The 0.264-acre property is located at 51015 US HWY 93, and is legally described as Lots 6-8 of Nob Hill, a subdivision located in Section 02 of Township 22 North and Range 20 West (see Attachment 1).

Commercial properties border the subject property to the east, with US HWY 93 to the north, a public walking path to the south, and vacant tracts to the west. The tract has a gradual slope to the southwest and is currently developed with one commercial structure with the ability to house two commercial operations, and a gravel parking area. The property has very limited vegetation, with the only area being a small grassy area in front of the building.

The property is accessed directly from the intersection of Hillcrest Drive and US Highway 93. The tracts were created in 1942 with the creation of the Nob Hill subdivision plat. According to tax records, the structure was built in 1972.

**APPLICABLE LOCAL REGULATIONS AND STATE LAWS:**

**Polson Development Code** (adopted 3/94) (REVISED 2018)

*Note:* In an effort to abbreviate this report, the City/County Zoning Regulations are not being included within the Staff Report. However, hard copies are available at the Planning Department, or found online at: <https://www.lakemt.gov/planning/polsonzoning.html>

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**COMMISSIONERS REPORT  
DISCUSSION AND ANALYSIS  
TOP SHELF BOTANICAL'S - PASTRE SPECIAL USE REQUEST  
POLSON CITY-  
COUNTY PLANNING AREA  
HIGHWAY COMMERCIAL ZONING DISTRICT (HCZD)  
JUNE 6, 2022**

1. The following items are attached to this report:
  - Attachment 1: Vicinity Map
  - Attachment 2: Layout
  - Attachment 3: Plat
  - Attachment 4: Site Photos
  - Attachment 5: Public Comments
2. Top Shelf Botanicals, is requesting a special use approval on a property belonging to Pastre Holdings, to allow for a new highway commercial business for the purpose of a recreational marijuana dispensary within the top floor of an existing duplex, and the expansion of an existing business from a medical marijuana dispensary to include the sale of recreational marijuana within the bottom floor of an existing duplex in the Highway Commercial Zoning District of the Polson City/County Planning Area. The view from the highway is critical to the city's image, so any major changes in occupancy of existing developments in the HCZD require a special use approval.

Planning Staff Note: This property was granted a special use approval in September of 2021 for the use of the bottom floor of the dispensary as a medical marijuana dispensary. The conditions of that approval stated that if the applicants wanted to use the structure for commercial dispensary, additional approvals would be required. The change from a medical facility to a commercial facility and the addition of the upstairs unit requires the additional review and approval of the City County Planning Board, the Planning Department, and the Lake County Commissioners.

3. The property is currently developed with one commercial structure which houses two commercial areas, along with a gravel parking area (see Attachment 2). The agent is not proposing any additional structures, modifications to the existing structure, or impervious surface coverage at this time; the work associated with the property being occupied by Top Shelf Botanicals would only include interior remodeling/rearranging and any requirements from the Planning Staff and the City/County Planning Board.
4. The subject property is ±0.264-acres and is located at 51015 US HWY 93 in Polson, just outside of city limits (see Attachments 1), and is legally described as Lots 6-8 of Nob Hill, a subdivision located within Section 02 of Township 22 North, Range 20 West. Commercial properties border the subject property to the east, with US HWY 93 to the north, a public walking path to the south, and vacant tracts to the west. The property is accessed directly from the intersection of Hillcrest Drive and US Highway 93.
5. Montana State Law has many requirements for this type of dispensary. The law requires that not only are local regulations complied with, but State approvals must also be granted in order to become a public dispensary. The applicant must hold a dispensary license, and if they choose to sell marijuana-infused products, they must also obtain a marijuana-infused product provider license or an MIPP License. The Planning Staff feels that it is necessary to point out that licensed providers and dispensaries are prohibited by law from advertising marijuana or

marijuana related products in any medium, including electronic media. Prior to the sale of marijuana, and all products must be tested by an approved laboratory or the department of agriculture to ensure product safety and consumer protection. The Planning Staff is suggesting that if the proposal is approved, a condition of approval be that prior to issuance of a zoning conformance permit, all State licenses and approvals be received, and copies submitted to the Planning Department, and that all State laws and requirements be followed by the applicant.

6. Per the City/County Zoning Regulations, the special use application, site plan, and performance standards (Chapter XVIII) from the PDC that needed to be mentioned or addressed for the requested use are as follows:

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| • Vehicular Access (PDC Chapter XVIII Division 2.N)    | • Potential Nuisances (PDC Chapter XVIII Division 3.W) |
| • Traffic Circulation (PDC Chapter XVIII Division 2.S) | • Landscaped Buffers (PDC Chapter XVIII Division 3.X)  |
| • Off-Street Parking (PDC Chapter XVIII Division 2.P)  | • Signs (PDC Chapter XVIII Division 3.Y)               |

7. Performance standards for the Highway Commercial Zoning District (HCZD) require that development minimizes the potential for “strip development”; those commercial developments do not have their principal access through the Rural Residential Zoning District (RRZD), Low Density Residential Zoning District (LRZD), or Medium Density Residential Zoning District (MRZD); and that outdoor storage is screened from public view, except for storage associated with active construction. While this proposal will not result in additional structures on the lot, it is important to ensure that these standards are still being met.

The subject property is along Highway 93 and Hillcrest Drive and is accessed directly off the highway at the intersection, or directly off Hillcrest Drive, depending on which direction you come from. Neither direction requires that you drive through any of the residential zoning districts. The highway corridor is all zoned highway commercial, as are all the lots along that section of Hillcrest Drive. No access through RRZD, LRZD, or MRZD is required.

8. The subject property currently borders Hillcrest Drive, at the intersection of US Highway 93. The structure historically has had two business within it, one downstairs, which utilizes an access from the intersection of Highway 93 and Hillcrest, and one upstairs, where the access point is further up Hillcrest Drive. This proposal would be to use both the upper and lower portions of the structure for the business, and both areas for parking, ingress, and egress. An increase in traffic flow would occur at these intersection points. A request for comment was mailed to the City of Polson, and the Montana Department of Transportation, however as of the date of this report no response has been received.

If the City-County Planning Board were to recommend approval of this special use request, Planning Staff would like to propose a condition stating that prior to issuance of a zoning conformance permit, the applicant should request comment from the City of Polson’s Road Department and/or the Montana Department of Transportation and address any traffic concerns prior to obtaining a permit.

A comment was received from MDT after the report had been published (attached), where MDT requested an opportunity to study the layout and location to allow for additional queuing distance for vehicles in this area. Planning Staff recommended an updated condition of approval which read “Prior to the issuance of a zoning conformance permit, the applicants shall address the traffic concerns from the May 9<sup>th</sup> comment from Rebecca Franke of MDT

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and request a comment from the City of Polson. If the city has any concerns or requirements, those shall be addresses as well". The City County Planning Board discussed at length the traffic concerns for the lot and the parking plan. They agreed with the Planning Staff's updated condition.

9. Traffic circulation could potentially be a concern on the subject property, due to the proximity of the highway connecting to Hillcrest Drive. The intersection of Hillcrest Drive and MT Highway 93 is well known for having traffic backups, and minor traffic accidents both on and off the highway. It is unknown what type of traffic volume the proposed business could generate for this area. Per the Trip Generator Manual, 10<sup>th</sup> Edition, a Marijuana Dispensary generates 744 TPD, and when broken down by peak hours, the highest volume was 64 trips an hour. If both levels of the building were utilized for the business, it is unpredictable how much traffic to predict. The parking and ingress and egress is a concern in this area.

Planning Staff is suggesting that prior to a zoning conformance permit being issued, a traffic flow proposal be submitted for review. Once approved, traffic flow signs and indicators shall be installed on site. New parking areas shall be designated, and parking spaces shall be marked prior to the issuance of a zoning conformance permit. If the business is proposed to be expanded at any time, any necessary approvals be obtained prior to the expansion taking place to determine if a new special use approval will be required for additional impacts to traffic, neighboring properties, and general health and public welfare.

10. Appendix E of the Polson Development Code (PDC) sets standards for off-street parking areas based on land use. The business was required 3 parking spaces with the approval of the medicinal marijuana business. Per Table E.1 of Appendix E, personal services are required to provide a minimum of 3 parking spaces per 1,000 square feet of floor area. Based on the application materials, the applicant will now be leasing the bottom and top portion of the existing building,). This would require approximately 6 parking spaces to satisfy the minimum standards. While Hillcrest Drive is not considered an arterial street as defined by the PDC, due to the proximity to Highway 93, and the fact that two business can be in operation at this site, Planning Staff identified a dedicated unloading area as a potential requirement to reduce the risk of conflicts with traffic at this location during the last special use review. The approval does not change the requirements for the loading and unloading zone or alter its location in any way. If the applicants would like to change the location of the zone, this would need to be included into the parking plan, reviewed, and approved.
11. To ensure land use compatibility and to enhance Polson's image, failure to mitigate against potential nuisances on a continuing basis is a violation of the Polson Development Code. Potential nuisances may include but are not limited to noise, light, glare, heat, electrical interference, waste, outdoor storage, stormwater runoff, dust, smoke, and odors. Change in how a business operates, or the increase of the ability to sell additional products, has the potential to increase in traffic generation, which may result in increased noise and dust. No indication has been made that any additional generation of heat, increase in odors, or outdoor storage would result from the proposed change-in-use, as the proposal is for distribution only. Additional light and glare from the subject property are not anticipated to exceed what is typical of a commercial establishment. Additional waste is not anticipated as no construction is being proposed. Noise generated on the property is proposed to be in line with other commercial business operations, such as idling cars, and deliveries made to the property, and the common noises of a property being inhabited. No additional stormwater runoff is anticipated as an increase in impervious surface coverage has not been proposed. Planning Staff believe that these potential nuisances could be mitigated against through proper solid waste management practices, practicing awareness around noise generation



during operating hours, and ensuring that traffic circulation and parking plans are appropriately designed.

12. Per the performance standards of the HCZD and requirements of Appendix F of the Polson Development Code, a basic landscape buffer, a minimum of 12-feet in width between the proposed development and any public street or road with at least four major trees per hundred lineal feet of buffer, is required when developing a property. Landscape buffers serve to improve the view of Polson from US Highway 93 and prevent views from being dominated by man-made improvements. However, this property has been developed since 1972, prior to zoning, has historically been occupied by commercial businesses, and no new construction is proposed. The applicant should be required to keep any vegetation on the property and encouraged to plant additional trees, shrubs, and grasses where appropriate.

**The City County Planning Board discussed landscaping and providing a barricade from having traffic being able to enter the lower parking lot. The applicants stated that they had some large rocks which could be used; however, the board pointed out that rocks could be driven over or hit if someone wasn't paying attention. Installing fencing that was aesthetically pleasing was recommended as a condition.**

13. The applicant is required to comply with any requirements enforced by the state of Montana for signage. The applicant recently applied for a sign permit for one sign on the front of the building facing Highway 93, and small free-standing sign. Both were approved by the Planning Department. The applicant is also required to display a five-digit Lake County address for emergency services. The five-digit physical address of the lot shall be prominently displayed at a location on the property that shall be visible from the primary access road.
14. All stormwater runoff is required to be retained onsite. No additional impervious surfaces have been proposed, therefore, a new stormwater management plan prepared by a qualified professional is not required for this change-in-occupancy.
15. Per the Polson Development Code (PDC), structures can include buildings, towers, earth formations, fences, or mobile structures, so long as they are man-made improvements. Existing improvements on the property were reviewed for compliance with standards for maximum building height and other standards set forth in the PDC. Although no additional buildings have been proposed in association with this change-in-occupancy, Planning Staff reviewed the existing structure for compliance, as no permits of record have been found for the subject property. It appears that the structures are in compliance with height standards, and lot coverage.
16. The Lake County Environmental Health Department has provided a comment stating that no permit is necessary for the proposal, as the building has a pre-existing septic and due to no processing being proposed on site, no increase of flow is being proposed which would result in a new system being required.
17. Because it is not Lake County's role to interpret or enforce private covenants, easements, or agreements, Staff is recommending that if the proposal is approved, a condition be included that states:  
*"The applicant shall ensure that all measures necessary are undertaken to ensure that the proposed activities occur within the lessee's property boundaries or are permitted via a recorded easement and do not negatively impact easements or adjacent properties. Neither the Planning Department, the City/County Planning Board nor their respective members shall be responsible or liable for any portion of the proposed plans that do not occur within the*

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*applicant's property, or impact easements or neighboring properties. In addition, it is the applicant's responsibility to comply with private contracts, agreements, covenants, conditions, and restrictions."*

18. Because the purpose of this special use review is not to assure the structural integrity of the existing development, including the site, or the effectiveness of the stormwater management plan, Staff is recommending that if the proposal is approved a condition be included that states:
- "Approval of the special use request and subsequent permitting of the proposed change-in-occupancy shall not be construed as assurance that the development is structurally sound, that the development will withstand environmental forces acting upon it, that the integrity of the slope will not be impacted by the proposed development, that the stormwater management plan will be effective, or that the development will accomplish its intended purposes. Neither the Planning Department, the City/County Planning Board, nor their respective members shall be responsible or liable for any defects or discrepancies in any plans or specifications submitted, revised or approved under this review, nor for any defects or discrepancies in construction pursuant to such plans and specifications."*
19. Pursuant to Chapter II, Section L.2.b of the Polson Development Code, the owner and adjoining land owners were notified of the special use request. Legal notice for the special use request was published in the April 20<sup>th</sup>, 2022 issue of the Valley Journal and adjoining property owners were notified of the request. To date, the Lake County Planning Department has received no written public comment.

**Updated to include the one comment from MDT.**

20. Section II.L of the Polson Development Code outlines the review criteria upon which a special use may be granted. The Board shall find adequate evidence that the listed criteria are met or found to be not pertinent to the particular case in order to approve the special use. The section of this report entitled "Findings/Board Action" includes Staff's evaluation of the review criteria specific to the special use request. **Staff's suggested findings could support a recommendation for approval of a special use request to allow for a new highway commercial business for the purpose of a recreational marijuana dispensary within the top floor of an existing duplex, and the expansion of an existing business from a medical marijuana dispensary to include the sale of recreational marijuana within the bottom floor of an existing duplex, with the conditions listed on pages 09-10.**

**INFORMATION FOR THE BOARD**

**General Information:**

The Polson Development Code requires Special Use Permits to be in compliance with the plan and these regulations. If the Board finds that it complies, it shall recommend approval of the application. If the Board finds that the proposed special permit use fails to comply, it shall recommend denial of the application.

**Board Items:**

The decisions before the City/County Planning Board are as follows:

1. Whether to recommend approve of this special use request to allow a new highway commercial business for the purpose of a recreational marijuana dispensary within the top floor of an existing duplex, and the expansion of an existing business from a medical marijuana dispensary to include the sale of recreational marijuana within the bottom floor of an existing duplex within the Polson City-County Planning Area;

2. Whether to adopt Staff's suggested findings of fact regarding the special use requests, or to adopt alternative findings of fact; and
3. Whether to impose conditions if the Board recommends approval of the requested special use (potential conditions are listed on pages 09-10 of this report).

After the Board reviews the particular facts and circumstances of the proposed special use requests and the Staff's recommendation, findings are required to be made by the Board to support the decision. The Staff Report, Findings of Fact, and attachments should always be adopted into the Board's findings in support of the final action on the proposal.

Findings/Board Action:

After the Board reviews the particular facts and circumstances of the special use requests, findings are required to be made by the Board to support a decision according to the required standards for evaluation outlined in Section II.L of the Polson Development Code, and the Board shall find adequate evidence showing that the proposed development meets the review criteria. Staff has listed each of the criteria below. After each listed criteria is Planning Staff's suggested findings, *in italics*, regarding the special use request.

**The City-County Planning Board's suggested findings could support approval of a special use request to allow for a new highway commercial business for the purpose of a recreational marijuana dispensary within the top floor of an existing duplex, and the expansion of an existing business from a medical marijuana dispensary to include the sale of recreational marijuana within the bottom floor of an existing duplex, if the suggested terms and conditions are also adopted.**

If the Board disagrees with the suggested findings, the Board shall make alternative findings to support their decision. If the Board chooses to modify the findings to support their decision, they shall direct staff as to which sections shall specifically be modified. The Staff Report and application materials should always be adopted into the Board's findings in support of the final action on the proposal.

**The City-County Planning Board did not recommend any changes to Staff's proposed findings.**

Findings to address compliance with the Polson Development Code are as follows:

**1. Vehicular Access:**

*The subject property is currently accessed off Hillcrest Drive, at the intersection of US Highway 93. The property appears to have two access points, one for each business that could be operated out of the structure. The proposed business has an access from the northern side of the property, at the intersection of Hillcrest and Highway 93, while the other business space that could operate from the top half of the structure is accessed from the southwestern side of the property, from Hillcrest Drive. If the applicant addresses any concerns of the city road department and MDT, and if any additional uses such a growing, processing, or public distribution, require additional review and approval, then concerns related to vehicular access appear to be mitigated and the proposal appears to comply with the Polson Development Code.*

**2. Traffic Circulation:**

*The subject property has direct access to Hillcrest Drive with two access points, one for the proposed business, and one for the business that could operate out of the top level of the structure. Traffic circulation could potentially be a concern on the subject property, due to the proximity of the highway connecting to Hillcrest Drive. The intersection of Hillcrest Drive and MT Highway 93 is well known for having traffic backups, and minor traffic accidents both on and off the highway. It is unknown what type of traffic volume the proposed business could*

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*generate for this area. Per the Trip-Generator Manual, 10th Edition, a Marijuana Dispensary generates 744 TPD, and when broken down by peak hours, the highest volume was 64 trips an hour. If both levels of the building were utilized for the business, it is unpredictable how much traffic to predict. The parking and ingress and egress is a concern in this area. A traffic flow proposal be submitted for review. Once approved, traffic flow signs and indicators shall be installed on site. New parking areas shall be designated, and parking spaces shall be marked prior to the issuance of a zoning conformance permit. If the business is proposed to be expanded at any time, any necessary approvals be obtained prior to the expansion taking place to determine if a new special use approval will be required for additional impacts to traffic, neighboring properties, and general health and public welfare. If circulations, parking, and loading plans are proposed, approved, and followed, for current and any future improvements, development, or additional uses, then concerns related to traffic circulation for the proposed medical marijuana dispensary appears to be mitigated and the proposal appears to comply with the Polson Development Code.*

**3. Off-Street Parking:**

*Parking areas on the subject property are not currently marked, however it appears that the property has adequate parking area to fit the regulations. Per the Polson Development Code, the proposed use will require 6 parking spaces, and per the previous approval, a designated loading and unloading zoning. If the applicant submits a parking plan in compliance with these requirements and the parking areas are marked with signage prior to the issuance of a zoning conformance permit, then parking-related hazards associated with the operation of medical marijuana dispensary on the subject property appear to be mitigated.*

**4. Potential Nuisances:**

*Potential nuisances identified by the Polson Development Code include but are not limited to noise, light, glare, heat, electrical interference, waste, outdoor storage, stormwater runoff, dust, smoke, and odors. Operation of a marijuana dispensary on the subject property is not expected to generate an increase in light, glare, heat, noise, electrical interference, waste, outdoor storage, stormwater runoff, dust, smoke, or odors. If proper awareness is practiced around the levels of noise and light generated by the business in accordance with standards, and traffic circulation and parking are managed to avoid impacting adjacent properties, then potential nuisances associated with the operation of the marijuana dispensary on the subject appear to be mitigated and the proposal appears to be in compliance with the Polson Development Code.*

**5. Landscaped Buffers:**

*A landscape buffer is usually intended to mitigate for visual impacts that result from new construction. The property has been developed since 1972, prior to zoning, and has historically been occupied by commercial businesses, with no new construction proposed at this time. The applicant should be required to maintain any existing vegetation on the property and encouraged to plant additional trees, shrubs, and grasses where appropriate. If this is done, then the proposed use associated with this special use request appears to satisfy the requirements of the Polson Development Code.*

**6. Signs:**

*Per Montana State Law, signage is restricted in association with the proposed business. A sign permit was applied for and granted in April 2022. If the business owner only posts signs in compliance with the zoning regulations and state law, and posts the address in a prominent location, then the proposal should be in compliance with the PDC.*

**7. Runoff Management:**



*No additional stormwater runoff management plans have been proposed or reviewed at this time as the proposal is not expected to result in an increase in impervious surface coverage. If future impervious surface coverage receives additional review and approval by Lake County, all stormwater runoff is retained onsite, and any additional development resulting in impervious surface coverage exceeding 20,000 square feet is accompanied by a stormwater runoff management plan prepared by a qualified professional, then the nuisance of stormwater runoff onto neighboring properties should be mitigated against and in compliance with the Polson Development Code.*

**8. Structures:**

*No additional structures have been proposed or reviewed at this time. If future structures and all impervious surface coverage proposed to be developed on the subject lot obtain the proper permits and approvals prior to the work beginning, then additional structures and/or impervious surface coverage associated with the use of the property as a medical marijuana dispensary should comply with the Polson Development Code without requiring an additional special use approval.*

**9. Building Setbacks, Lot Coverage, and Other Standards of Polson Development Code:**

*Existing development on the property appears to comply with standards set by the Polson Development Code for building height and impervious surface coverage. No additional structures or impervious surfaces have been proposed at this time. If any additional structures or impervious surfaces are reviewed and approved through the appropriate permitting and approval procedures, then the proposed change-in-occupancy should comply with the Polson Development Code.*

**CITY/COUNTY RECOMMENDATION  
TOP SHELF BOTANICAL'S - PASTRE SPECIAL USE REQUEST  
POLSON CITY-  
COUNTY PLANNING AREA  
HIGHWAY COMMERCIAL ZONING DISTRICT (HCZD)  
JUNE 6, 2022**

After review of the application, the Polson Development Code, the history of the parcel in question, and related information, City/County Planning Board's suggests the Board could consider recommending approval of the Special Use Request to allow the subject property a new highway commercial business for the purpose of a recreational marijuana dispensary within the top floor of an existing duplex, and the expansion of an existing business from a medical marijuana dispensary to include the sale of recreational marijuana within the bottom floor of an existing duplex. The subject parcel is legally described as Lots 6-8 of Knob Hill, a subdivision located in Section 02 of Township 22 North and Range 20 West. The approval is subject to the following conditions and terms:

*The City-County Planning Board voted 5-0 with 1 abstention to recommend approval of this special use request based on the findings and conclusions, application materials, and site conditions, subject the following conditions and terms:*

Conditions and Terms:

1. This special use approval is valid for the expansion of an existing business on the bottom floor of an existing duplex and the operation of a new business on the top floor of an existing duplex on the subject property by Top Shelf Botanicals, a Medical Marijuana Dispensary.
2. All development and use of the lot shall be in accordance with the plans on file at the Lake County

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Planning Department, the standards contained in the Polson Development Code for the Highway Commercial Zoning District (HCZD) of the Polson City-County Planning Area, and as discussed in the Staff Report, except as modified by these conditions. Further modifications shall require additional approvals from Lake County. Construction of any additional structures, impervious surface coverage including blacktop or pavement, or uses not contemplated under this review shall require additional review and approval by Lake County.

3. This approval is limited to use of the property by Top Shelf Botanicals to provide the services described in application materials and is dependent upon the applicants leasing the property from Pastre Holdings LLC. This approval does not allow for the construction of any structures or impervious surface areas, nor does it allow for any other uses or operations.
4. Prior to the issuance of a zoning conformance permit, a traffic flow proposal be submitted for review, **which includes an aesthetically pleasing traffic control fence or other large structure which will more traffic further up Hillcrest and away from the Highway.** Once approved, traffic flow signs and indicators shall be installed on site. New parking areas shall be designated, and parking spaces shall be marked prior to the issuance of a zoning conformance permit.
5. Prior to issuance of a zoning conformance permit, all State licenses and approvals be received, and copies submitted to the Planning Department, and that all State laws and requirements be followed by the applicant.
6. ~~Prior to issuance of a zoning conformance permit, the applicant should request comment from the City Road Department and/or the Montana Department of Transportation and address any concerns.~~ **Prior to the issuance of a zoning conformance permit, the applicants shall address the traffic concerns from the May 9<sup>th</sup> comment from Rebecca Franke of MDT and request a comment from the City of Polson. If the city has any concerns or requirements, those shall be addresses as well**
7. The approval does not change the requirements for the loading and unloading zone or alter its location in any way. If the applicants would like to change the location of the zone, this would need to be included into the parking plan, reviewed, and approved.
8. The applicant is required to maintain any existing vegetation on the property and are encouraged to plant additional trees, shrubs, and grasses where appropriate.
9. Prior to any lighting being installed on the lot, further review and approval is required by the Lake County Planning Department.
10. The applicant is required to comply with any requirements for signage enforced by the State of MT and the PDC. The applicant is also required to display a five-digit Lake County address for emergency services. The five-digit physical address of the lot shall be prominently displayed at a location on the property that shall be visible from the primary access road.
11. Stormwater runoff shall be managed onsite without causing damage or harm to the natural environment, water quality, or adjacent properties.
12. No construction, modification of existing structures, or additions of impervious surfaces (which included hard surfacing of driveways, and/or parking areas) are being approved.
13. If the business is proposed to be expanded at any time in the future, any necessary approvals be obtained prior to the expansion taking place in order to determine if a new special use approval will be required for additional impacts to traffic, neighboring properties, and general health and public welfare.

14. The applicants shall ensure that all measures necessary are undertaken to ensure that the proposed activities occur within their property boundaries or are permitted via a recorded easement and do not negatively impact easements or adjacent properties. Neither the Planning Department, the City/County Planning Board, nor their respective members shall be responsible or liable for any portion of the proposed plans that do not occur within the applicant's property, or impact easements or neighboring properties. In addition, it is the applicants' responsibility to comply with private contracts, agreements, covenants, conditions, and restrictions.
15. Approval of the special use request and subsequent permitting of the proposed change-in-occupancy shall not be construed as assurance that the development is structurally sound, that the development will withstand environmental forces acting upon it, or that the development will accomplish its intended purposes. Neither the Planning Department, the City/County Planning Board, nor their respective members shall be responsible or liable for any defects or discrepancies in any plans or specifications submitted, revised or approved under this review, nor for any defects or discrepancies in construction pursuant to such plans and specifications.
16. The permittee shall contact the Lake County Planning Department at (406) 883-7235 once development of the lot is completed and provide for a final inspection of the property to ensure compliance with these conditions.
17. Lake County reserves the right to revoke this special use approval, terminate, or enjoin the use of the structure or property should the permittee, their heirs or assigns violate any condition of the approval, or the standards contained in the Polson Development Code.
18. The Lake County Planning Department reserves the right to require additional conditions for permitting of the proposed use, structures, and impervious surface coverage including blacktop or pavement to ensure compliance with the Polson Development Code and any other applicable laws and regulations in effect.
19. As allowed by Polson Development Code under Chapter II, Division 2, Section O, the applicant shall have 2-years from the date of the Board approval letter to meet any conditions that are required to be met prior to issuance of a zoning conformance permit unless extended in writing.

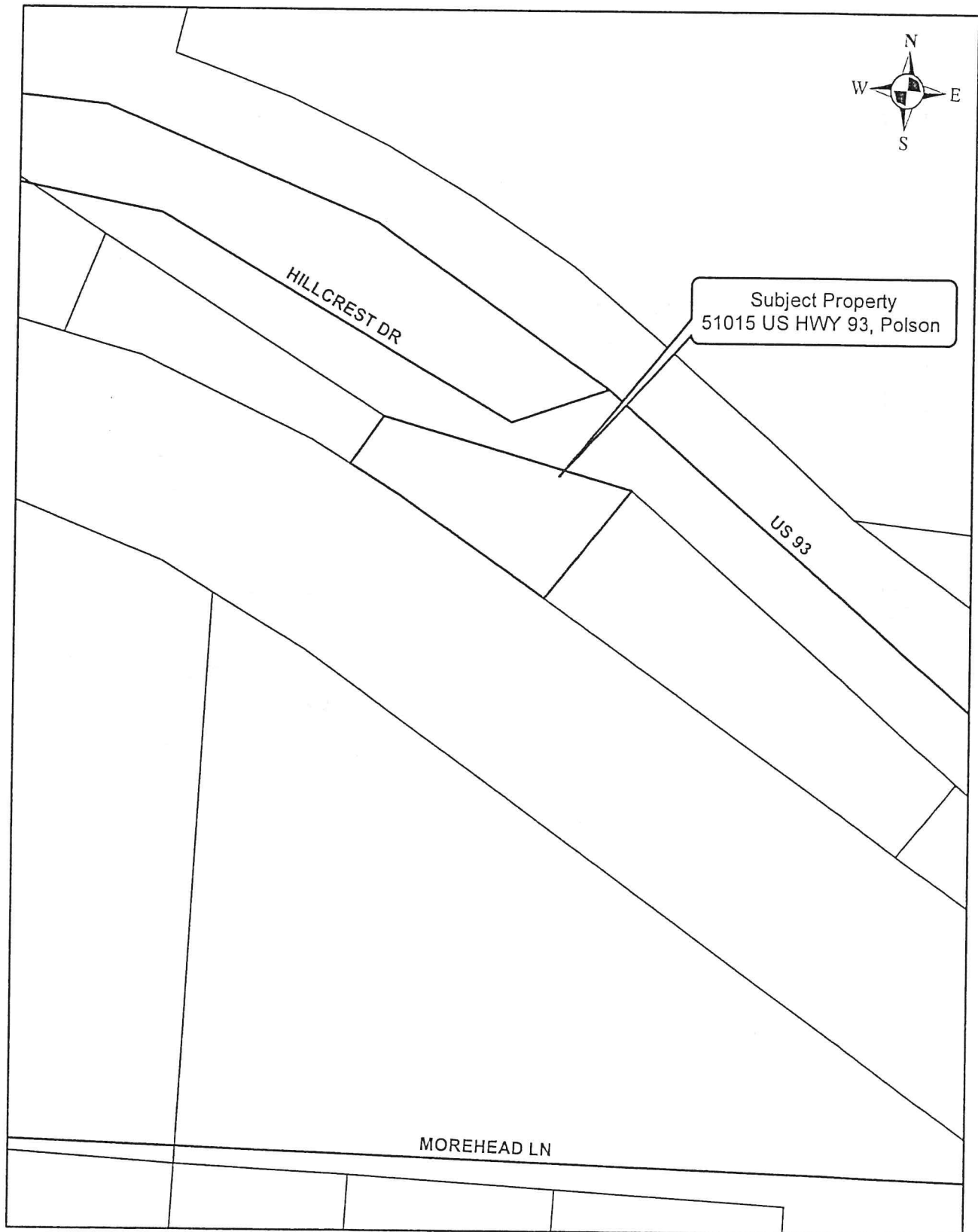
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# VICINITY MAP

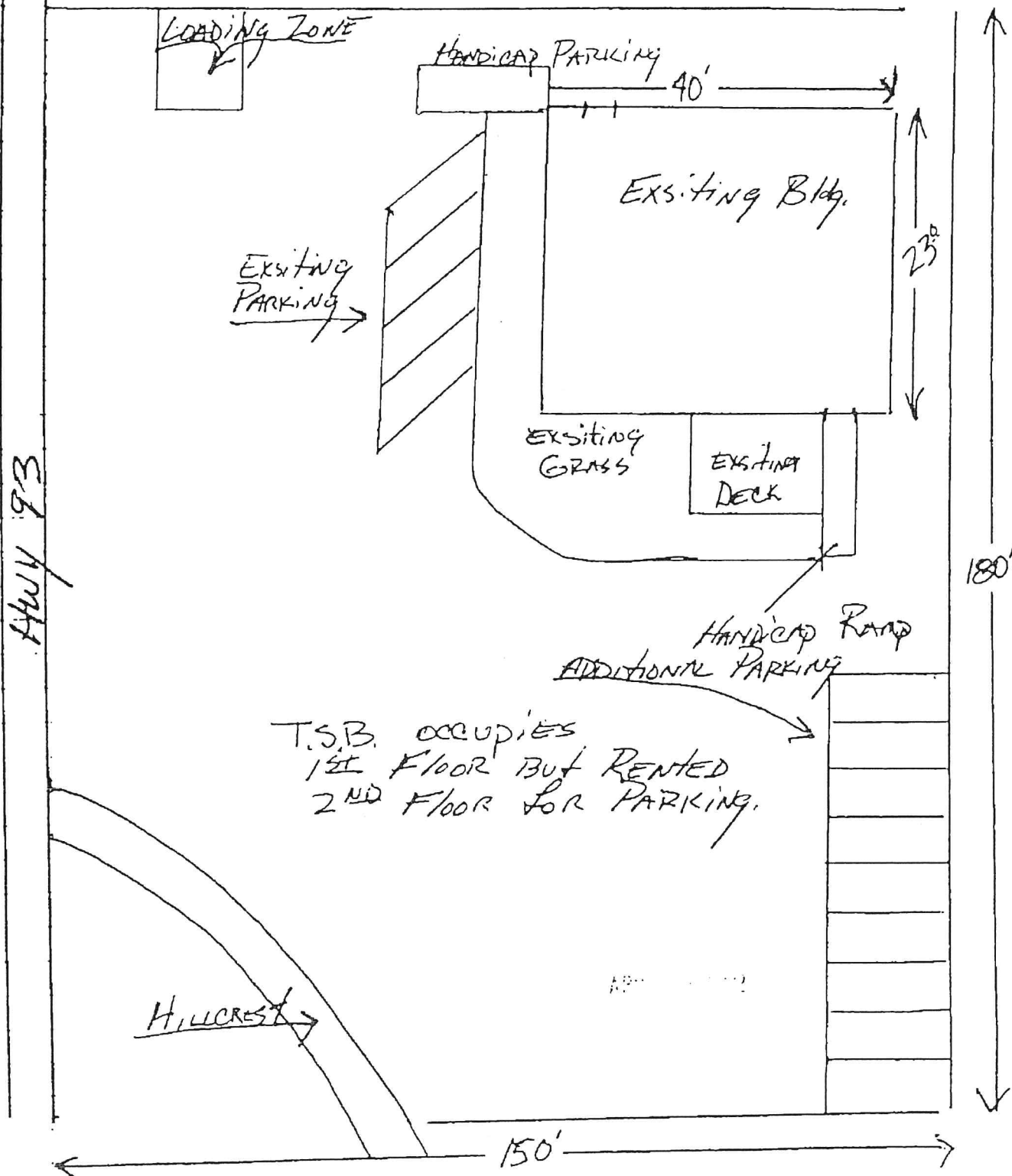
## TOP SHELF BOTANICAL'S - PASTRE

### SPECIAL USE REQUEST

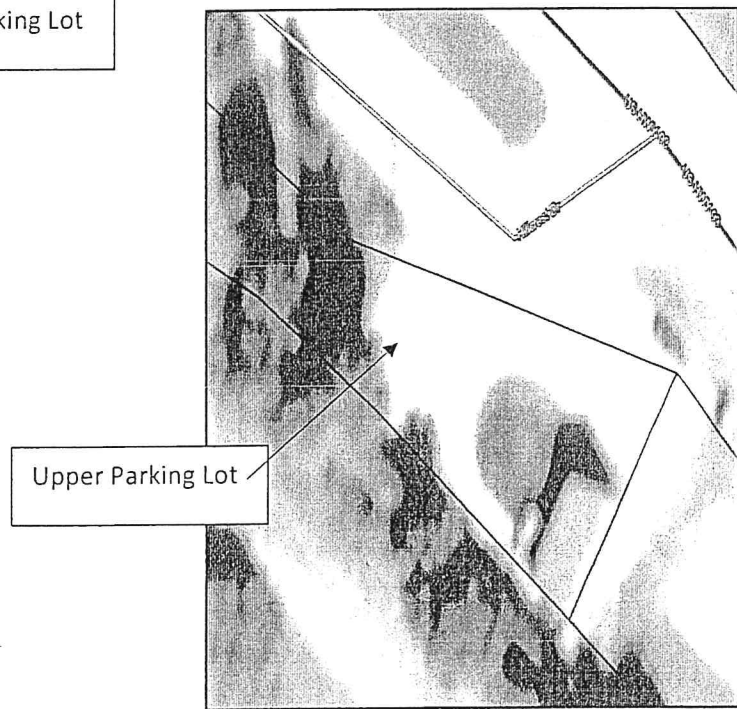
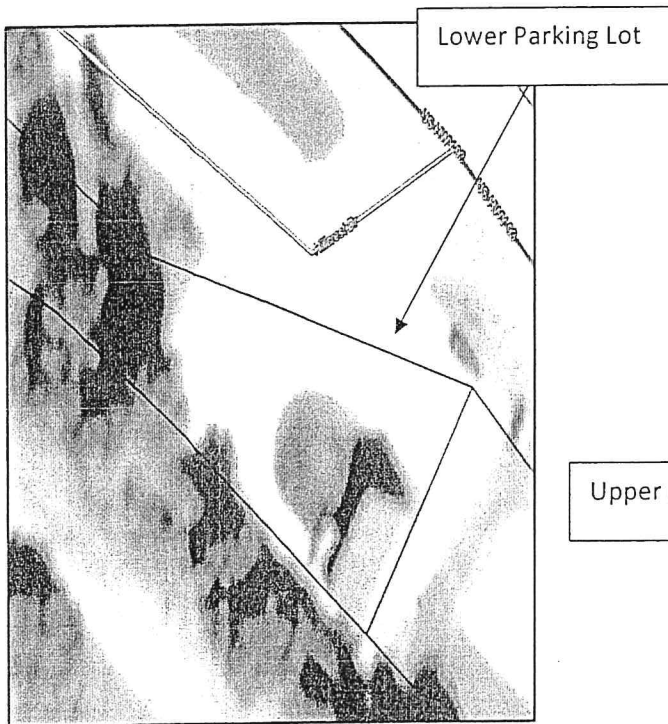
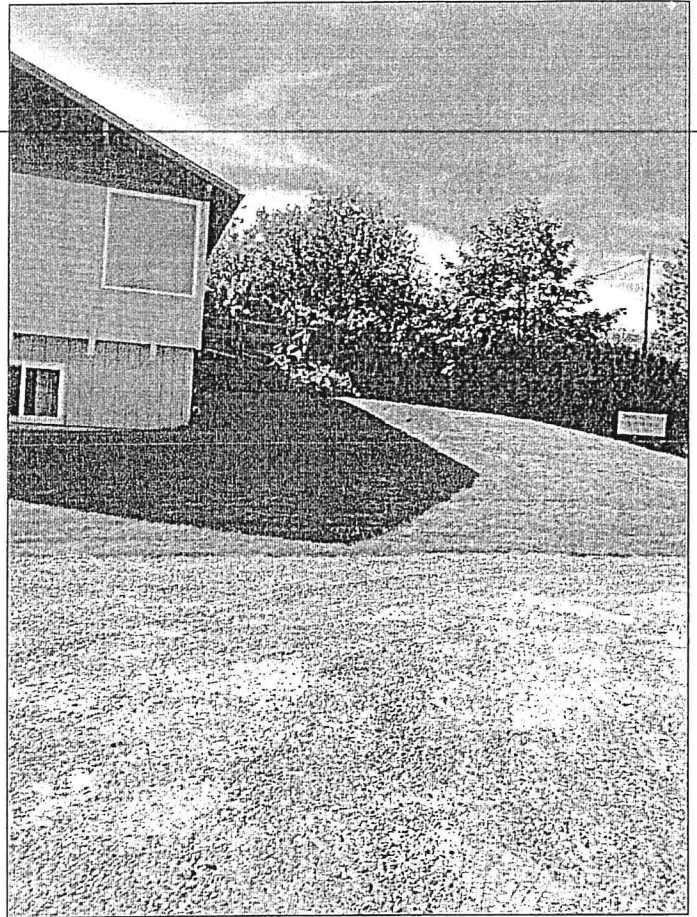
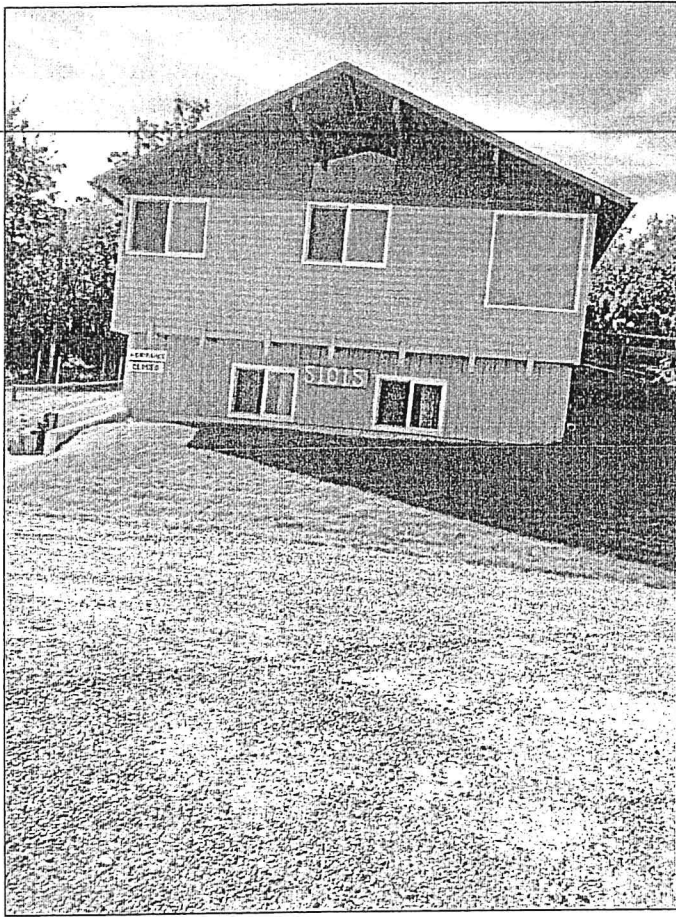


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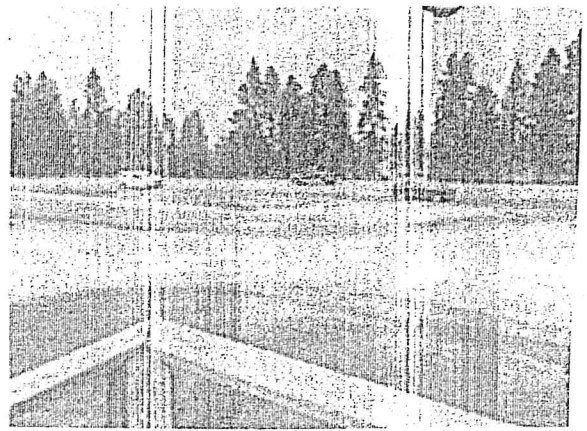
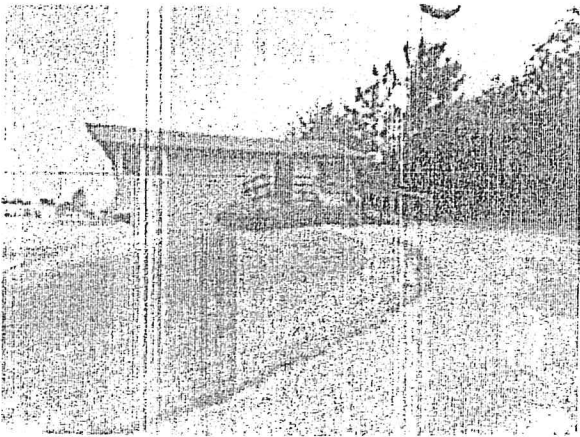
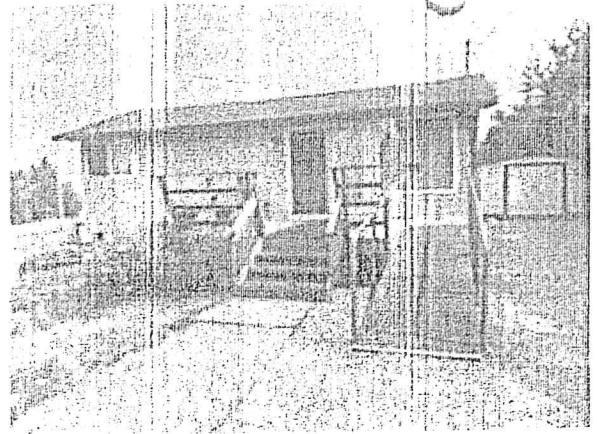
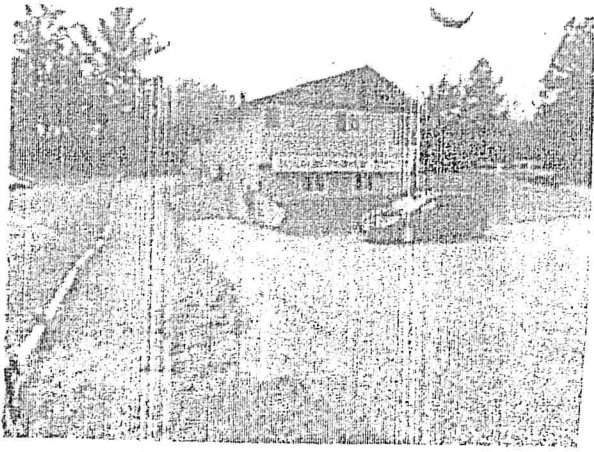
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## Lake County Planning

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**From:** Franke, Rebecca <rfranke@mt.gov>  
**Sent:** Monday, May 9, 2022 5:02 PM  
**To:** Lake County Planning  
**Subject:** Beck/Pastre Holdings LLC Special Use Request

Thank you for contacting the Montana Department of Transportation (MDT) regarding the proposed special use request which would allow for a new commercial business to operate out of an existing duplex on the property. The proposal is located at 51015 Hillcrest Drive in Polson.

With the understanding that access will be from Hillcrest Drive, the Department does not have any comments regarding direct access onto the highway. However, MDT does have concerns regarding the traffic generated as part of the new commercial business and its impact on the intersection of Hillcrest Drive with US 93. Due to the existing approach on Hillcrest Drive being in close proximity to the highway, there is very little distance for queuing for drivers exiting the highway and wanting to turn left into the property if there are drivers waiting to enter the highway from Hillcrest Drive. MDT respectfully requests a review of the approach's layout/location on Hillcrest Drive in order to allow for more queuing distance between the intersection and the approach.

Feel free to contact me if you have any questions. Apologies for missing the staff report deadline. Thank you,



**MONTANA**  
Department of  
Transportation

**Rebecca Franke, PE**  
*District Traffic Engineer* | Kalispell  
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MAY 10 2022

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